



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,866	07/22/2003	Patrick J. Fitzgibbons	L0562.70046US00	7654
7590		08/16/2007		
Randy J. Pritzker Wolf, Greenfield & Sacks, P.C. 600 Atlantic Avenue Boston, MA 02210			EXAMINER HAGEMAN, MARK	
			ART UNIT 3653	PAPER NUMBER
			MAIL DATE 08/16/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/624,866	<b>Applicant(s)</b> FITZGIBBONS ET AL.	
	<b>Examiner</b> Mark Hageman	<b>Art Unit</b> 3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 15 is/are pending in the application.
- 4a) Of the above claim(s) 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7-16-2007 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-12 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Morikawa. The reference discloses a method for sorting a plurality of items, to each of which a sequence number is assigned (col. 6, lines 7+), into a predetermined sorted sequence using a plurality of sorting regions (210, 230, 302, 303, 300), including for each sort, at least two initial sorting regions (210, 230), and at least two additional sorting regions (302, 303, 300), at least one of the additional sorting regions functioning

as a return region, the items being initially located, in an unsorted order, in the at least one initial sorting region, the method comprising the acts of: sorting the items in each of the at least two initial sorting regions into at least one intermediary sorted set by moving at least some of the items at least one of the initial sorting regions between the at least one initial sorting region and at least two of the additional sorting regions, such that two items from different initial sorting regions are sorted into the same intermediary sorted set; and sorting the items within each intermediary sorted set by moving at least some of the items to the return region in substantially the predetermined sorted sequence (col. 5, lines 25+). As set forth in the office action dated 4-2-2007 Examiner maintains that all the tray storage areas make up an intermediary sorted set. Examiner contends that the claim still lacks the requirement of items from two different initial sorting regions being intermixed. They only need to be part of an intermediary sorted set, which they are when the tray storage area (300) in whole is considered to contain the intermediary sorted set.

With regards to claim 2, the reference further discloses using a computer to track the location of each of the plurality of items (col. 5, lines 25+).

With regards to claim 3, the reference further discloses the items are sorted in a single pass (col. 5, lines 25+). Examiner contends that items are sorted to some extent in a single pass, even though the sort is not complete. The claim does not require, for example, a sort to a CWS in a single pass.

With regards to claim 4, the reference further discloses conveying items from at least one of the return regions serially and in the predetermined sorted sequence (col. 5, lines 10+).

With regards to claim 5, the reference further discloses placing an identifier with each of the plurality of items (col. 6, lines 6+).

With regards to claim 6, the reference further discloses checking the identifier to ensure that the order of the items substantially matches the predetermined sorted sequence (col. 6, lines 6+).

With regards to claim 7, the reference further discloses the items are positioned linearly in the sorting regions (col. 5, lines 25+).

With regards to claim 8, the reference inherently discloses a computer is used to control the movement and positioning of the items according to a predetermined algorithm.

4. With regards to claim 9, the reference further discloses an apparatus for sorting a plurality of postal bins comprising: a plurality of sorting regions, wherein the plurality of sorting regions comprise for each sorting at least two initial regions (210, 230) in which the postal bins are initially located in an unsorted order, at least one return region (fig 12) in which postal bins are located after completion of sorting and at least one additional region (300) used in the sorting; a first mechanism (510, 520) for physically moving at least one postal bin between at least two selected sorting regions where the first mechanism is configured to move two items initially located in different initial regions into the same additional region; a second mechanism (c6 lines 3+) for physically

moving at least one item between positions within each sorting region; an postal bin location tracking mechanism; and a controls operative for controlling the first and second mechanisms to move the postal bins into a predetermined sorted sequence at least partly in response to the tracking mechanism (col. 5, lines 25+). Examiner contends that elements 510 and 520 in combination with the various conveyors are fully capable of moving mail from any initial region to any additional region. Examiner contends that the language, "where the first mechanism is configured to move two items initially located in different initial regions into the same additional region; a second mechanism," is functional and further contends as stated that the Morikawa device is fully capable of functioning in this manner.

With regards to claim 10, the reference further discloses at least some of the sorting regions are located one under another and wherein the first mechanism includes an elevator (510, 520)

With regards to claim 11, the reference further discloses the second mechanism is a conveyor (410, 490).

With regards to claim 12, the reference further inherently discloses the controls include a processor running a subroutine for issuing instructions according to a selected item sorting algorithm.

5. Claims 1, 3-5, 7, and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by US 7,012,211 to Brinkley. Brinkley discloses a method for sorting a plurality of items, to each of which a sequence number is assigned (c7 lines 64+) into a

Art Unit: 3653

predetermined sorted sequence using a plurality of sorting regions (18, 14, 16, 20), including for each sort, at least two initial sorting regions (18 and c12 lines 4+)), and at least two additional sorting regions (14, 16, 20), at least one of the additional sorting regions functioning as a return region (20), the items being initially located, in an unsorted order, in the at least one initial sorting region (c12 lines 7+), the method comprising the acts of: sorting the items in each of the at least two initial sorting regions into at least one intermediary sorted set by moving at least some of the items at least one of the initial sorting regions between the at least one initial sorting region and at least two of the additional sorting regions, such that two items from different initial sorting regions are sorted into the same intermediary sorted set; and sorting the items within each intermediary sorted set by moving at least some of the items to the return region in substantially the predetermined sorted sequence (c7 lines 44+).

With regards to claim 3, the reference further discloses the items are sorted in a single pass (c1 lines 55+).

With regards to claim 4, the reference further discloses conveying items from at least one of the return regions serially and in the predetermined sorted sequence (c11 lines 37+).

With regards to claim 5, the reference further discloses placing an identifier with each of the plurality of items (c7 lines 63+).

With regards to claim 7, the reference further discloses the items are positioned linearly in the sorting regions (figures 1+).

With regards to claim 8, the reference discloses a computer is used to control the movement and positioning of the items according to a predetermined algorithm (c7 lines 63+).

### ***Response to Arguments***

6. Applicant's arguments filed 7-16-2007 have been fully considered but they are not persuasive. Applicant stated that the amended language of the claims 1 and 9 provides further limitation and features, which Morikawa does not suggest. Examiner disagrees and as addressed above maintains that Morikawa anticipates the claims as amended. Interpretation of the Morikawa consistent with Final office action dated 4-2-2007 including the entire tray storage region (300) as the intermediary sorted set still anticipates the claims. Further relative to claim 9 examiner contends that the amended language is functional and Morikawa is fully capable of functioning in the claimed manner.

### ***Conclusion***


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Hageman whose telephone number is (571) 272-3027. The examiner can normally be reached on M-F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3653

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MCH

  
PATRICK MACKEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600